

**LALLY & MISIR, LLP**  
ATTORNEYS AT LAW - SOLICITORS  
THE NASSAU BUILDING  
220 OLD COUNTRY ROAD  
MINEOLA, NEW YORK 11501

www.lallymisir.com

**MEMO ENDORSED**

Telephone (516) 741-2666

Facsimile (516) 742-8533

November 8, 2013

VIA ECF

Honorable Kenneth M. Karas  
Federal Building and United States Courthouse  
Chambers 533  
300 Quarropas Street  
White Plains, New York 10601-4150

**USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #: \_\_\_\_\_  
DATE FILED: \_\_\_\_\_**

Re: United States v. Malcolm Smith et.al., Case Number 13-Cr-29 (KMK)  
Defendant Vincent Tabone's Request for a Stay of the Deadline to Submit  
Substantive Discovery Motions, or in the Alternative, Unopposed Request for  
Extension of Time to Submit Substantive Discovery Motions.

Dear Judge Karas:

This firm represents Defendant Vincent Tabone, in the above referenced matter.

The Court has ordered that the Defendants' submit substantive Discovery Motion by no later November 15, 2013, that the Government submit their response by December 16, 2013, and further that Defendants' submit their Replies by January 3, 2013.

On November 01, 2013, the Court granted Defendant Noramie Jasmin's request for an extension of time until December 06, 2013 date to submit substantive discovery motions.

I respectfully request that the Court stay the deadline for submission of Defendants' substantive Discovery Motions, until thirty (30) days after the Court decides the Defendants' Motions to Dismiss currently pending before the Court. The Court has scheduled oral argument on the Motions to Dismiss for December 5, 2013. As outlined in the briefs, there is no legal precedent for the Government's position, in violation of core First Amendment protections, that it can prosecute Mr. Tabone, a Republican Party volunteer, for disloyalty to the Republican Party, or for the position that the Federal Government may, in disregard of Federalism guiding principles, impose an interpretation of New York State's bribery statute contrary to the State's own history and practice of prosecution under that statute. If the Court grants Mr. Tabone's

Motion to Dismiss in its entirety, all counts against him would be dismissed and any Discovery Motions would become moot.

In the alternative, I respectfully request that the Court extend the deadline for submission of Defendants' substantive Discovery Motions from November 15, 2013 to December 13, 2013. The date for the Government's response would accordingly be extended from December 16, 2013 until January 13, 2014. Further, the date for Defendants' Replies would be extended from January 3, 2013 until January 17, 2014. //

I request an extension of time to submit the substantive Discovery Motions because my staff continues to have difficulty with the audibility of several of the discovery tapes, and has not been able to open certain electronic files provided by the Government because the files appear to require specialized software to open. In addition, I am concerned that we have not yet received all of the discovery due to my client, which hampers my ability to fully brief the substantive Discovery Motions.

Today, my Partner Deborah N. Misir, spoke with Douglas Bloom, Assistant United States Attorney, and he advised that it is the Government's position that they have produced all required discovery, but he has not given us additional materials that he would have in the ordinary course because the protective order issue has not yet been resolved.

I also notified Mr. Bloom of our request for stay or extension of time, and he indicated that the Government opposes our request for a stay pending the Court's decision on the Defendants' Motion to Dismiss, but has no objection to our request for an extension of time to submit the Discovery Motions by December 13, 2013.

In addition, we are advised by counsel for Defendants Daniel Halloran and Malcolm Smith that they join in our motion for a stay for submission of substantive Discovery motions pending the Court's decision on the Defendants' Motion to Dismiss, or in the alternative, request for extension of time.

For all of the above reasons, I respectfully request the Court grant a stay for submission of substantive Discovery Motions until 30 days after the Court issues its decision on Defendants' Motions to Dismiss, or in the alternative, request an extension of time to submit substantive Discovery Motions until December 13, 2103.

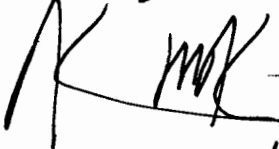
Thank you for your consideration in this matter.

Respectfully submitted,

  
Grant M. Lally Esq.

cc: Government and Defense counsel via email

The revised schedule is approved. SD ordered.

  
11/13/13